

RESPONSE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Mark A Smith, et al.

Art Unit: 2891

Examiner: Zarneke, David A

Serial Number: 10/620,968

Filed: July 15, 2003

Title: FLUIDIC MEMS DEVICE

Date: June ~~14~~, 2005

**RESPONSE TO RESTRICTION REQUIREMENT**

TO THE COMMISSIONER FOR PATENTS:

Sir:

Please reconsider the restriction requirement as follows:


In response to your Office Action dated May 23, 2005, Applicants respectfully traverse Examiner's statement that "[c]urrently, no claims are generic." Applicants believe that claims 1, 8, and 48 are generic and read on each species. None of the limitations in independent claims 1, 8, and 48 would necessarily not read on the embodiments shown in Figs. 1-3. For instance, in claim 1, each of Figs. 1-3 include a substrate with a MEMS structure, a cover plate bonded to the surface of the substrate with a bond ring, an inner cavity defined by the substrate, the cover plate, and the bond ring and a fill port defined by the substrate, the cover plate and a breach in the bond ring. Similarly, for claims 8 and 48, each of the elements cited would be covered by the illustrations.

Further, Applicants further believe that the requirement for sub-species election on Figure 3 is improper as Figures 9 A-C are illustrating different methods of filling a fluid package and are not particularly limiting the structure of the apparatus.

However, Applicant provisionally elects the species 3) of Figure 3 and subspecies iv) of Figure 10, with traverse, on which claims 1-7, 8-13, and 48-52 read. If upon examination any generic claims are found to be allowable, further species claims that include or incorporate the elements of the generic claim would contain patentable subject matter that would warrant full examination. In view of the foregoing, the Applicant respectfully requests that the requirement for restriction be withdrawn upon reconsideration and the examination of all pending claims 1-25 and 48-52 as the search for claims 1, 8, and 48 will necessarily require the searching of the subject matter in the remaining claims.

Respectfully Submitted,

Mark A. Smith

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PATENT APPLICATION  
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IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Smith et al  
Serial No: 10/620,968  
Filing Date: July 15, 2003  
Title: Fluidic MEMS Device

Examiner: David Zarneke  
Group Art Unit: 2891  
Confirmation No: 9697

COMMISSIONER FOR PATENTS  
PO Box 1450  
Alexandria, VA 22313-1450

TRANSMITTAL LETTER

Sir:

Transmitted herewith is/are the following in the above-identified application:

**(X) Response to Restriction Requirement**

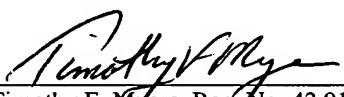
There is no charge for this correspondence; no new or additional matters are involved.

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Respectfully Submitted,

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I hereby certify that this correspondence is being  
Deposited with the United States Postal Service as  
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Commissioner For Patents, PO Box 1450, Alexandria,  
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Date of Deposit: 6/14/05

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